

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WENDY L. HIGGINS,

Plaintiff,

v.

THE POLYCLINIC, *et al.*,

Defendants.

CASE NO. C23-0226-JCC

ORDER

This matter comes before the Court on *sua sponte* pre-service section 1915(e)(2)(B) review of Plaintiff's complaint (Dkt. No. 5). Plaintiff, proceeding *pro se*, filed an application to proceed *in forma pauperis*, (Dkt. No. 1), which the Honorable S. Kate Vaughan, United States Magistrate Judge, granted (Dkt. No. 4). Plaintiff also filed an application for court-appointed counsel. (Dkt. No. 1.) Under 28 U.S.C. section 1915(a), the Court must review and dismiss before service the lawsuit of any person seeking to proceed *in forma pauperis* if it is "frivolous or malicious; fails to state a claim upon which relief may be granted; or seeks monetary relief from a defendant who is immune from such relief." 28 U.S. C. § 1915(e)(2)(B).

To state a claim upon which relief may be granted, a complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 664 (2009). The factual allegations must be "enough to raise a right to relief

1 above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The  
 2 complaint may be dismissed if it lacks a cognizable legal theory or states insufficient facts to  
 3 support one. *Zixiang v. Kerry*, 710 F.3d 995, 999 (9th Cir. 2013).

4 The Court holds *pro se* pleadings to a less stringent standard than ones drafted by lawyers  
 5 and liberally construes them in the light most favorable to the plaintiff. *Erickson v. Pardus*, 551  
 6 U.S. 89, 93 (2007). When dismissing a complaint under § 1915(e), the Court gives *pro se*  
 7 plaintiffs leave to amend unless the deficiencies of the complaint clearly could not be cured by  
 8 amendment. *Cato v. United States*, 70 F.3d 1103, 1006 (9th Cir. 1995).

9 Plaintiff alleges Defendants The Polyclinic, Dr. Frank Isik, and Chad Beck violated her  
 10 Due Process rights. (Dkt. No. 5 at 1.) She further alleges that Defendants lied in court filings,  
 11 signed fraudulent documents, harassed Plaintiff, threatened Plaintiff with a lawsuit, and  
 12 threatened to “take any present and[/or] future settlements [she] may get.” (*Id.*) She alleges that  
 13 these events occurred during a prior 2019 District Court proceeding and a King County small  
 14 claims court proceeding. (*See id.*)

15 However, Plaintiff does not explain how Defendants violated her Due Process rights. In  
 16 fact, Plaintiff fails to put forth *any* legal theory, let alone a cognizable one. Instead, she makes  
 17 cursory allegations, followed by 23 pages of exhibits, which include an unsent letter to the judge  
 18 who oversaw the small claims court proceeding (*see* Dkt. No. 5 at 2), communications related to  
 19 the small claims court case, and documents from the District Court case. Because Plaintiff states  
 20 no claim for relief, the Court DISMISSES the complaint with prejudice.<sup>1</sup> Moreover, because the  
 21 complaint is dismissed, Plaintiff’s request for court appointed counsel (Dkt. No. 6) is DENIED  
 22 as moot.

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 26 <sup>1</sup> Because Plaintiff fails to state *any* claim for relief, it is clear that providing leave to amend  
 would be futile. *See Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (citation omitted)

1 DATED this 23rd day of March 2023.

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5 John C. Coughenour  
6 UNITED STATES DISTRICT JUDGE  
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